

## 21 C.J.S. Courts § 67

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### Courts

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## II. Jurisdiction of Courts

### E. Mode of Acquiring Jurisdiction

#### 1. In General

§ 67. Subject matter jurisdiction invoked by commencement of action and pleadings

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#### West's Key Number Digest

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**Jurisdiction of a court over the subject matter of a case is commenced with the filing of a complaint, petition, or other pleading.**

A court's subject matter jurisdiction must be properly invoked<sup>1</sup> and perfected<sup>2</sup> by the institution of proceedings by the parties,<sup>3</sup> employing some sort of initiating procedural mechanism,<sup>4</sup> such as a pleading, complaint, or information<sup>5</sup> stating a case belonging to the general class over which the court's authority extends.<sup>6</sup>

The failure to adhere to the requirements governing the proper nature and filing of case-initiating documents, even when characterized as substantive requirements, will not necessarily deprive a court of subject matter jurisdiction.<sup>7</sup> If a statute is merely directory and procedural, the failure to follow a procedural requirement will not prevent a court from exercising its subject matter

jurisdiction unless a party can show some resulting harm or prejudice.<sup>8</sup> However, a court cannot exercise its subject matter jurisdiction if the requirements of a the controlling statute have not been met and the statute is mandatory containing prohibitory or limiting language with respect to the court's subject matter jurisdiction.<sup>9</sup> The failure to comply with a statutory jurisdictional prerequisite is a defect that goes to the court's subject matter jurisdiction, meaning a statutory prerequisite that defines, enlarges, or restricts the class of causes the court may decide, or the relief the court may award, and is a jurisdictional statutory requirement.<sup>10</sup> Courts are reluctant to define statutory prerequisites as jurisdictional because doing so means that a judgment will never be considered final if the court lacked subject matter jurisdiction.<sup>11</sup> The mere enactment of statutory filing deadlines or notice requirements does not affect a court's fundamental subject matter jurisdiction nor deprive courts of subject matter jurisdiction.<sup>12</sup>

Because subject matter jurisdiction is conferred solely by constitutional or statutory provisions,<sup>13</sup> the parties' actions in the litigation cannot confer the court's subject matter jurisdiction, when it is lacking, whether by acquiescence or consent, waiver, estoppel, appearance, or silence,<sup>14</sup> and once it is properly established, the parties' actions cannot take it away.<sup>15</sup> It follows that a failure to object to the court's subject matter jurisdiction is immaterial,<sup>16</sup> and the challenge may be raised at any time,<sup>17</sup> even after judgment and even for the first time on appeal.<sup>18</sup>

Once a court has acquired subject matter jurisdiction, challenges to its subsequent rulings and judgment are questions incident to the exercise of jurisdiction rather than to the existence of jurisdiction.<sup>19</sup>

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## Footnotes

- 1 Ala.—*Ex parte C.E.*, 91 So. 3d 687 (Ala. 2011).  
 Fla.—*Laura M. Watson, P.A. v. Stewart Tilghman Fox & Bianchi, P.A.*, 162 So. 3d 102 (Fla. 4th DCA 2014).  
 N.C.—*Gerhauser v. Van Bourgondien*, 767 S.E.2d 378 (N.C. Ct. App. 2014).  
 Wyo.—*CSC Group Holdings, LLC v. Automation & Electronics, Inc.*, 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 2 Fla.—*Laura M. Watson, P.A. v. Stewart Tilghman Fox & Bianchi, P.A.*, 162 So. 3d 102 (Fla. 4th DCA 2014).
- 3 N.C.—*In re Officials of Kill Devil Hills Police Dept.*, 223 N.C. App. 113, 733 S.E.2d 582 (2012).  
 Wyo.—*CSC Group Holdings, LLC v. Automation & Electronics, Inc.*, 2016 WY 26, 368 P.3d 302 (Wyo. 2016).

- 4 Wyo.—CSC Group Holdings, LLC v. Automation & Electronics, Inc., 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 5 Ala.—Ex parte C.E., 91 So. 3d 687 (Ala. 2011).  
  
N.C.—In re Officials of Kill Devil Hills Police Dept., 223 N.C. App. 113, 733 S.E.2d 582 (2012).  
  
Utah—Harold Selman, Inc. v. Box Elder County, 2011 UT 18, 251 P.3d 804 (Utah 2011).  
  
Wyo.—CSC Group Holdings, LLC v. Automation & Electronics, Inc., 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 6 Wyo.—Brown v. City of Casper, 2011 WY 35, 248 P.3d 1136 (Wyo. 2011).
- 7 Wyo.—CSC Group Holdings, LLC v. Automation & Electronics, Inc., 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 8 Va.—Boatright v. Wise County Dept. of Social Services, 64 Va. App. 71, 764 S.E.2d 724 (2014).  
  
**Nonjurisdictional statutory requirements**  
Wis.—Jackson v. Labor and Industry Review Com'n, 2006 WI App 97, 293 Wis. 2d 332, 715 N.W.2d 654 (Ct. App. 2006).
- 9 Va.—Boatright v. Wise County Dept. of Social Services, 64 Va. App. 71, 764 S.E.2d 724 (2014).  
  
**Noncompliance may affect jurisdiction**  
Wis.—Schill v. Wisconsin Rapids School Dist., 2010 WI 86, 327 Wis. 2d 572, 786 N.W.2d 177, 258 Ed. Law Rep. 735 (2010).
- 10 Tex.—Metropolitan Transit Authority v. Jackson, 212 S.W.3d 797 (Tex. App. Houston 1st Dist. 2006), order withdrawn, (Apr. 27, 2007).
- 11 Tex.—Metropolitan Transit Authority v. Jackson, 212 S.W.3d 797 (Tex. App. Houston 1st Dist. 2006), order withdrawn, (Apr. 27, 2007).
- 12 Mont.—In re E.G., 2014 MT 148, 375 Mont. 252, 326 P.3d 1092 (2014).
- 13 Wyo.—CSC Group Holdings, LLC v. Automation & Electronics, Inc., 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 14 § 71.
- 15 § 88.
- 16 Kan.—Goldman v. University of Kansas, 365 P.3d 435, 326 Ed. Law Rep. 1067 (Kan. Ct. App. 2015).  
  
N.C.—Gerhauser v. Van Bourgondien, 767 S.E.2d 378 (N.C. Ct. App. 2014).
- 17 Cal.—Bains v. Department of Industrial Relations, 244 Cal. App. 4th 1120, 198 Cal. Rptr. 3d 772 (3d Dist. 2016), review denied, (Apr. 27, 2016).  
  
Mo.—Blanchette v. Blanchette, 476 S.W.3d 273 (Mo. 2015).  
  
N.C.—Gerhauser v. Van Bourgondien, 767 S.E.2d 378 (N.C. Ct. App. 2014).  
  
Pa.—In re Sheriff's Excess Proceeds Litigation, 98 A.3d 706 (Pa. Commw. Ct. 2014), appeal denied, 112 A.3d 655 (Pa. 2015).

Tenn.—[Turner v. Turner](#), 473 S.W.3d 257 (Tenn. 2015).

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N.C.—[Gerhauser v. Van Bourgondien](#), 767 S.E.2d 378 (N.C. Ct. App. 2014).

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Ky.—[Daugherty v. Telek](#), 366 S.W.3d 463 (Ky. 2012).

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